

In the Matter of ) Arizona Supreme Court  
 ) No. R-12-0028  
PETITION TO AMEND RULE 38, )  
ARIZONA RULES OF THE SUPREME )  
COURT )  
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 ) **FILED 09/12/2013**

TO:  
Rule 28 Distribution  
John A Furlong  
Ellen S Katz  
Amar D Sarwal, Association of Corporate Counsel

## ATTACHMENT A\*

### **RULES OF THE SUPREME COURT (emergency amendments effective January 1, 2013)**

#### **Rule 38. Special Exceptions to Standard Examination and Admission Process**

**(a)-(d)** [No change in text.]

#### **(e) Authorization to Practice Law for Attorneys Volunteering with Approved Legal Services Organizations.**

1. *Purpose.* ~~Individuals admitted to the practice of law in Arizona~~ Attorneys have a responsibility to provide competent legal services for all persons, including those unable to pay for such services. As one means of meeting these legal needs, attorneys who otherwise are not allowed to practice law in Arizona may volunteer to provide civil legal assistance to individuals who are unable to pay for such services under limited circumstances.

A. An attorney who is or was admitted to practice law for at least five (5) years in the courts of any state, district, or territory of the United States (other than Arizona) who volunteers to provide civil legal assistance to individuals who are unable to pay for such services is allowed to do so, under limited circumstances, under this rule. An attorney may be admitted to practice for the limited purpose of providing such assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule.

B. An attorney who is registered as in-house counsel pursuant to Rule 38(h) may provide assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule. An attorney who qualifies under this provision need not comply with the certification requirement of paragraph (e)(3) of this rule.

2. *Definitions.*

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\* Additions to text are indicated by underscoring and deletions by ~~strikeouts~~.

A. [No change in text.]

B. A “Rule 38(e) attorney” is any person who is or was admitted to practice in the courts of any state, district, or territory of the United States of America ~~(other than Arizona)~~, is not registered as in-house counsel pursuant to Rule 38(h), and

i. has been engaged in the active practice of law for at least five years before applying to participate in the volunteer lawyer program;

ii. has been a member in good standing of the entity governing the practice of law of any other state, territory, or the District of Columbia and has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the past fifteen years;

iii. agrees to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Supreme Court of Arizona for disciplinary purposes;

iv. neither asks for nor receives compensation of any kind for the legal services to be rendered hereunder; and

v. is certified under paragraph (e)(3) of this rule.

C. [No change in text.]

3.-7. [No change in text.]

## ATTACHMENT B\*

### RULES OF THE SUPREME COURT (Proposed amendments to existing rule)

#### Rule 38. Special Exceptions to Standard Examination and Admission Process

(a) - (d) [No change in text.]

#### **(e) Authorization to Practice Law for Attorneys Volunteering with Approved Legal Services Organizations.**

1. *Purpose.* Attorneys have a responsibility to provide competent legal services for all persons, including those unable to pay for such services. As one means of meeting these legal needs, this rule allows certain attorneys who otherwise are not allowed to practice law in Arizona ~~may~~ to volunteer to provide civil legal assistance to individuals who are unable to pay for such services ~~under limited circumstances.~~

~~A.~~ An attorney who is or was admitted to practice law for at least five (5) years in the courts of any state, district, or territory of the United may be admitted to practice for the limited purpose of providing assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule.

~~B. An attorney who is registered as in-house counsel pursuant to Rule 38(h) may provide assistance as an unpaid volunteer in association with an approved legal services organization so long as that organization employs at least one Arizona attorney not admitted pursuant to any provision of this rule. An attorney who qualifies under this provision need not comply with the certification requirement of paragraph (e)(3) of this rule.~~

2. *Definitions.*

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\* Additions to text are indicated by underscoring and deletions by ~~strikeouts~~.

A. [No change in text.]

B. A “Rule 38(e) attorney” is any person who is or was admitted to practice in the courts of any state, district, or territory of the United States of America; ~~is not registered as in-house counsel pursuant to Rule 38(h);~~ and

i. has been engaged in the active practice of law for at least five years before applying to participate in the volunteer lawyer program;

ii. has been a member in good standing of the entity governing the practice of law of any other state, territory, or the District of Columbia and has not been disciplined for professional misconduct by the bar or courts of any jurisdiction within the past ~~fifteen~~ five years;

iii. agrees to abide by the Rules of Professional Conduct and submit to the jurisdiction of the Supreme Court of Arizona for disciplinary purposes;

iv. neither asks for nor receives compensation of any kind for the legal services to be rendered hereunder; and

v. is certified under paragraph (e)(3) of this rule.

C. [No change in text.]

3. *Certification.* An attorney who seeks authorization to practice law under this rule shall file with the clerk of the Supreme Court of Arizona an application including:

A. a certificate from the highest court or agency in the state, territory, or district in which the applicant is presently licensed to practice law documenting that the applicant has fulfilled the requirements of active bar members for at least five years preceding the date of the application, and that the applicant has not been disciplined for professional misconduct by the bar or highest court of the state, territory, or district during the last ~~15~~ 5 years; provided that an attorney who is registered as in-house counsel pursuant to Rule 38(h) shall fulfill this requirement by providing a copy of his or her current Arizona Certification of Registration of In-House Counsel;

(B) [No change in text.]

C. a sworn statement signed by the applicant that he or she:

(i) – (ii) [No change in text]

iii. has not been disciplined by the bar or courts of any jurisdiction during the last ~~fifteen~~ five years.

[No change in remaining text of (C)]

4.-7. [No change in text.]

(f) –(i) [No change in text.]